

BOARD OF LICENSE COMMISSIONERS

City Hall, 718 Main Street

Fitchburg MA 01420

(978) 345-9557

William A. Judge, Chairman

Robert A. Bourque

John E. Murray, Jr.

MINUTES OF MEETING

The regular meeting of the Board of License Commissioners was held on September 9, 2009 in the Veteran's Memorial Room, 718 Main St. - City Hall, Fitchburg, and called to order by Chairman William Judge at 6:03 PM. Commissioner John Murray was present. Commissioner Robert Bourque was absent.

The agenda consisted of the following:

I. REVIEW AND ACCEPTANCE OF MINUTES FROM THE PREVIOUS MEETING.

The minutes from the meetings held on June 29, 2009, July 20, 2009 and July 27, 2009 were reviewed, approved and signed by the two members present.

II. NEW APPLICATIONS

Jeanine Landry, Peppers Fine Food Catering, Northboro, MA for Special One Day Wine and Malt Beverages License for a Celebration of Mill Renovation from 5P – 7P on September 17, 2009 at 44 Old Princeton Rd.

APPROVED 2/0

Jorge DeLeon, d/b/a Pizza DeLeon, 130 Water St. for Transfer and Change of Location of Annual, Restaurant, Wine and Malt license to Pisarn, Corp. d/b/a One Thong Chai, 127 John Fitch Highway, Chalida Chindapanich, Manager.

APPLICATION ACCEPTED AND SENT TO A PUBLIC HEARING ON SEPTEMBER 23, 2009 2/0

Sage Restaurant Manager, LLC, d/b/a Courtyard Fitchburg for Change of Manager to Matthew Doucette.

APPROVED PENDING RECEIPT OF CLEAR CORI 2/0

Silhouette, LLC, d/b/a Club Confidentials, 480 Water St. For Change of Location to 432 John Fitch Highway and Change of DBA to "This Side".

APPLICATION NOT ACCEPTED 2/0 (Insufficient information regarding operating plans)

Late Filed Application:

Amy E. Therrien, The Eastwood Club for Special One Day Wine and Malt Beverages License for a Family Outing from 11AM to 5PM on Saturday, September 12, 2009 in the rear parking lot of 389 Townsend St.

APPROVED 2/0

III. HEARINGS

Café Destare, LLC, 320 Main St., for Alteration of Premises: Exterior seating in front of building.

Hearing held. Mr. Chris Iosua was present. No one spoke in favor of or in opposition to the alteration.

APPROVED 2/0.

Mr. Robert Kopelman and Mr. Thomas Tramontozzi, The Club, Inc., 535 Water St. for status of establishment and compliance with Decision issued on July 27, 2009 regarding "Failure to operate as licensed".

Mr. Robert Kopelman and Mr. Thomas Tramontozzi were present. Mr. Kopelman stated that, due to a number of reasons, they have been unable to finalize the details of the transfer of the license. They presented a letter, signed by both of them, requesting that the ABCC approval of the transfer be reversed.

Letter accepted and approved 2/0

IV. SUMMONS HEARING

Walter Kirby, Manager, Partner's Pub, 970 South St. for Disturbance on premise: FPD Reports:
09-20920-OF,

09-20926-OF, 09-20162-OF, 09-17957-AR, 09-19557-OF, 09-20924-AC, 09-7808-OF.

Present were Mr. Walter Kirby and Attorney Robert Rice representing Partner's Pub. Representing Fitchburg Police Dept. were Sgt. Mark Jackson and Officers Pennetti, Gordon and Hurley.

Upon request from Attorney Rice it was agreed that FPD report #09-19557-OF would not be discussed because he did not receive a copy of the report.

The following letter was read aloud by Chairman Judge:

July 27, 2009

Board of License Commissioners

City Hall, 718 Main Street

Fitchburg MA 01420

To: Willam A. Judge, Chairman

Robert A. Bourque

John E. Murray, Jr.

Re: Partners Pub

Commissioners:

I would request that you review the attached reports for the Partners Pub located at 970 South Street. Two disturbances during the last few months, specifically, on July 23, 2009 and July 16, 2009 are of concern of mine. Officers responded to this location in regards to a disturbance call on 7-23-09. On this date 5 officers were needed to close down the establishment (please review the attached report). The second incident occurred on July 16 2009 where every available officers working, along with the Massachusetts State Police responded. Numerous fights occurred as the officers attempted to close down the establishment. Officers stated in reports a large group were intoxicated.

A number of other incidents have also concerned that are related to this establishment, accidents, damage to property (neighbor's lawns, etc...).

I also reviewed calls for service at Partner's Pub I found that our officers responded to this location over 90 times (2008-09).

It is my recommendation that their license to sell alcoholic beverage be review by this commission and an appropriate sanction occurs.

Robert A. DeMoura

Chief of Police

Attorney Rice stated that the letter was prejudicial in citing "80 – 90 calls to the establishment" and requested that discussion be limited to the reports cited in the summons.

Chairman Judge stated that the discussion would not include FPD report #09-7808-OF.

Officer Pennetti stated that he provided assistance to Officer Gordon on the night in question. He stated that a woman told him she was assaulted. He did not arrest anyone. The case was dropped in court. He said the establishment has a problem with patrons leaving and congregating in the parking lot. He has witnessed last call at 1:30AM.

Officer Gordon stated that the bar staff is helpful with clearing patrons at closing time. He stated it is cleared by 2AM and the problem becomes the outside of the bar. He has told the bartender to shut people off or has told patrons to leave the bar.

Sgt. Jackson stated that bar staff are not identifiable and the staffing pattern is inconsistent. He stated that he worked with Mr. Kirby and, after that discussion, Mr. Kirby has instituted a "No re-entry after 1AM" policy. He said that the bar closing seems smoother since the policy was put in place. He said the bar staff does commonly check ID's but it is random and inconsistent.

After brief conference with Mr. Kirby, Attorney Rice stated that Mr. Kirby will have bar staff shirts to make ID of staff easier.

In response to questioning, Mr. Kirby stated that on a typical night he has 3 “walk around” staff and 5 bar staff. He said last call is between 1:10AM and 1:30AM depending on how busy it is and that they start clearing people out of the bar at 1:40AM.

Commissioner Murray stated that the police seem satisfied with the cooperation of the owner. He stated that the problems are occurring outside the bar and that if the neighbors complain, the source of the problem must be addressed.

Attorney Rice requested that no action be taken by the Board.

NO ACTION TAKEN 2/0.

V. OTHER

Proposed change of License Commission regulations:

Change License Commission regulation 6.1 to read as follows:

Effective January 1, 2010, premises licensed under the provisions of Chapter 138 Section 12 of the General Laws, can be open to the public Monday through Saturday, 8:00 a.m. to 11:00 p.m., and from 12:00 p.m. to 11:00 p.m. on Sundays. A late closing permit can be issued, at the discretion of The Board for the hours between 11:00PM and 1:00AM and must be displayed with the license. A 2:00AM late closing permit could be issued for a special daily occasion after an application is filed with the License Board and a hearing is held.

Proposed change of License Commission regulations:

Change License Commission regulations 6.12 and 9.5 to read as follows:

All establishments will stop serving alcohol at least sixty (60) minutes before closing time. No patrons will be allowed to enter or re-enter the establishment within sixty (60) minutes of closing time.

Both proposals were discussed simultaneously.

The following letter was received by e-mail:

*Mayor Lisa Wong
City Councilors
License Commissioners
City Hall
718 Main St.
Fitchburg, MA 01420*

Opposition to Proposed Changes in License Commission Regulations

Mayor Wong, City Councilors, and License Commissioners:

Tomorrow night (Wednesday), there are two proposed changes to the regulations of the Fitchburg Board of License Commissioners that would be catastrophic to my business.

- The first proposed change rolls back the hours until which we can serve alcohol to 12:30 AM. (Fitchburg already has a separate requirement that serving cease 30 minutes before closing, so the 1AM closing time indicates a 12:20AM Last Call.) This would put all Fitchburg on-premise establishments at a significant disadvantage to businesses in other towns and cities.*
- The second proposed change would require us to stop serving 60 minutes before closing time and not allow re-admittance (in practice creating a 12:50 Last Call). Besides being essentially unenforceable (which creates a negative environment where establishments are forced to break the law in order to compete with each other), this change would force Fitchburg bar staff to essentially work without tips for an hour every day and create strange security issues around the no re-admittance policy.*
- The combined effect of both proposed changes would be all of the above disadvantages plus rolling Fitchburg Licensees back to State Hours, "or the hours guaranteed to us which local authorities have no ability to restrict. Last Call would be at 11:50PM.*

Although these two changes would negatively affect all on-premise license holders in the city, my business

in particular would be so severely damaged it could not survive a month. 95% of my sales occur after 10pm, 85% after 11pm, more than 50% after midnight. It is not uncommon for us to not have a single customer before 8pm. In fact, to cut costs during the summer, we have in previous years changed to "summer hours" on slower days of the week and not even opened until 11pm. Our 4pm to 10pm hours exist mostly to keep our building secure and our area of the neighborhood as orderly as possible; certainly we lose money from 4 to 10pm almost every day.

The vast majority of my customers on the slower weeknights (the essential nights that must succeed to pay the bills) stop by on their way home from their second shift employment in Leominster. These are almost all restaurant and retail workers. Without my 2AM license, I absolutely cannot compete with the many, many other establishments my customers currently drive by in Leominster and Lunenburg on their way to Hooligan's. I would not lose the sales from just 1AM to 2AM, but the sales for the whole night since my customers would simply go somewhere else.

As far as the busier nights, we would have very little hope of capturing the college business we currently depend on. In the past few years we have begun to see the beginnings of cross-pollination between the downtown businesses that are open late, meaning people come to the area to visit a few different businesses, walking between locations. This is an amazingly hopeful sign for Downtown Fitchburg. Either of these regulations would effectively kill that progress as students and others would go to other areas with 2AM licenses or simply stay on campus at house parties. This is terrible for my business and for the whole community.

The failure of my business would cause lost jobs obviously, but it would also create a domino effect for other businesses. My employees, my entertainers, and my customers patronize many other Fitchburg businesses because of our location. From Chinese take-out to gas to pizza to convenience store snack food, we generate commerce in the community. My business patronizes many other Fitchburg businesses for trash removal, oil delivery, vending services, plumbing, snow removal, and specialty gases. Additionally, my business lights the street, creates foot traffic, and contributes to charities and the arts. We are responsible licensees and have succeeded in creating a fun and friendly community within our premise. There are no problems at Hooligan's that would be solved by a change like this.

I urge you to support local business and oppose these changes to our current regulations. The last thing Fitchburg needs is more empty storefronts and less economic opportunity.

Yours sincerely,

Erika M. Kirby

erikamkirby@gmail.com | 978 230 6093

Representatives from several licensed liquor establishments were present. The following people spoke in opposition to the proposed regulation changes: Cory Ingel (Charles Park Place), David Celuzza (Slattery's), Peter Cote (Beemer's), Erika Kirby (Hooligans), Larry Marshall (Spinners), Sean Dailey (Hooligans). No one spoke in favor of the changes.

City Councillors David Clark and Annie DeMartino were noted as being present.

THE TWO PROPOSALS TO CHANGE THE REGULATIONS WERE WITHDRAWN 2/0.

- Taxi Driver Applications**

The following applicants were approved for two years: Stanley E. Byner, Sandra Gaitan, Jorge Perez, Ronald LaFleur, Lester Wilson, Susan Pelletier

- Any other matter that may come before the License Commission as time permits**
Letter from MA State Lottery Commission regarding application from Beemer's Pub for

a Keno license was read and accepted. No opposition 2/0.

The meeting adjourned at 8:51 PM.

Respectfully submitted,

Anna M. Farrell, Clerk

Approved:

William A. Judge

ABSENT
Robert Bourque

John E. Murray, Jr.